

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.4802 of 2000

ORAL ORDER:

This writ petition is filed challenging the award made in I.D.No.54 of 1987 dated 10.9.1997 on the file of the first respondent-Labour Court insofar as denying continuity of service, backwages and other attendant benefits while ordering fresh appointment of the petitioner.

It appears, petitioner was appointed as Conductor in the second respondent-Corporation in the year 1979 and attached to Kothagudem Depot. While that being so, on 29.4.1984 when he was conducting the Bus on the route Ramavaram to CRP camp, a check was exercised by the checking officials between stage Nos.4 and 5 and found certain cash and ticket irregularities. A charge sheet was issued to the petitioner and after conducting a detailed enquiry into the matter, he was removed from service vide proceedings dated 15.10.1984. The appeal filed against the said order was rejected on 12.4.1985. Ultimately, petitioner raised a dispute before the first respondent-Labour Court. Before the Labour Court, it was the case of the petitioner that the enquiry was not properly conducted and absolutely there was no evidence to prove the charges framed against him and even assuming that the charges are proved, punishment of removal from service is disproportionate to that of the misconduct alleged. The respondent-management filed a detailed counter denying the allegations made by the petitioner and asserted that the charges leveled against the petitioner are grave in nature and the enquiry was conducted after giving a fair and proper opportunity to the petitioner. Before the Labour Court, petitioner examined himself as W.W.1, however, no documents were marked. On behalf of respondent-management, though none were examined, documents Exs.M1 to M16 were marked. After detailed examination of the evidence and material on

record, the Labour Court came to the conclusion that the enquiry conducted by the management was proper and valid and the charges framed against the petitioner were proved. However, in the facts and circumstances of the case, found that the removal from service was disproportionate to that of the misconduct alleged, therefore directed the respondent-management to reinstate the petitioner as Conductor afresh. Aggrieved by the same, the present writ petition is filed.

Heard both sides.

The charges leveled against the petitioner are that he failed to collect fare and issue tickets to (16) passengers under three charges. The explanation offered by the petitioner was that at the time of check, there were about (70) passengers in the Bus and he was in the middle of the Bus and was in the act of issuing tickets. In the meanwhile check had taken place, therefore, he cannot be blamed for such trivial misconduct. Further, the passengers boarded the Bus at stage ex-stage No.4 and the check had taken place between ex-stages 4 and 5 and the Bus did not even travel beyond one fare stage. Therefore, absolutely there was no chance for him to issue tickets particularly when there were (70) passengers in the Bus. This fact has been elicited in the cross-examination of TTI who was examined in the domestic enquiry. When the TTI was asked, he replied that 'yes' the Conductor was in the middle of the Bus and he was in the act of issuing tickets.

In view of this submission, there is no necessity of going into other details. This itself would show that the Conductor was in the act of issuing tickets and the Bus has not even traveled beyond one fare stage. Therefore, assuming that the charge is proved, the punishment of removal from service is disproportionate to that of the misconduct alleged against the petitioner. The Labour Court ought not to have denied entire service of the petitioner.

Under those circumstances, to meet the ends of justice, the award

passed by the Labour Court is modified to the following effect:

“In the result, the respondent-management is directed to reinstate the petitioner into service with continuity of service, such as, seniority, promotion, but without any backwages and other attendant benefits.

The writ petition is accordingly disposed of. No order as to costs.

C.V.RAMULU, J

Date: 26.12.2007
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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.4802 of 2000

26.12.2007

**IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD**

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.4802 of 2000

Date: 26th December, 2007

Between:

J.Nallaiah

.. Petitioner

And

Industrial Tribunal-cum-Labour court,
Warangal, rep. by its Presiding Officer & another.

.. Respondents